

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

June 3, 2010



Conditional Use Permit CU 10-05: Carlos Rodriguez

CASE DESCRIPTION: a request for approval of a Conditional Use Permit to allow a nursing home on property zoning Residential District – 5000 (RD-5)

LOCATION: 505 East Pease Street on the south side of East Pease Street between Winter and South Ennis Streets, being Lots 3 and 25 in Block 8 of the Winter's Estate Subdivision in Bryan, Brazos County, Texas

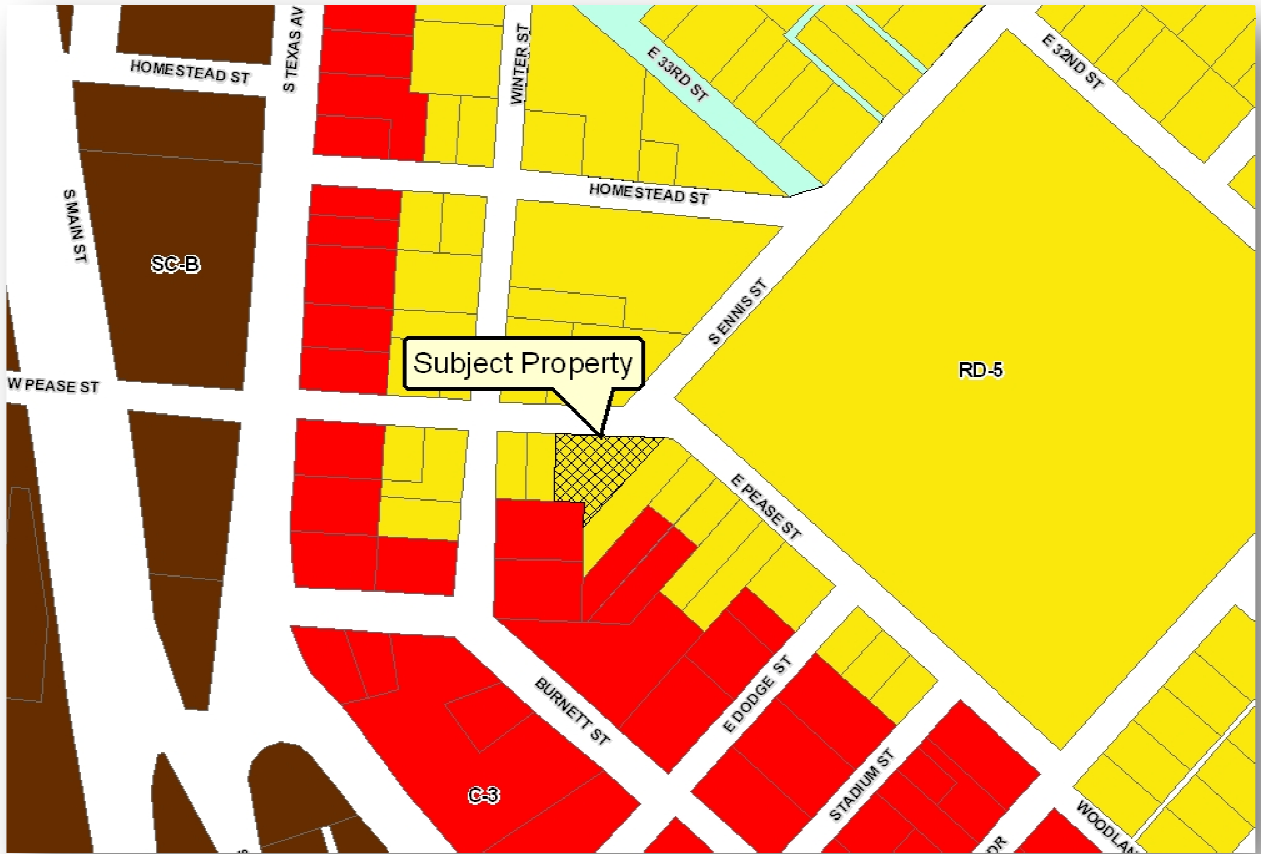
ZONING: Residential District – 5000 (RD-5000)

EXISTING LAND USE: nursing home in a single-family residence

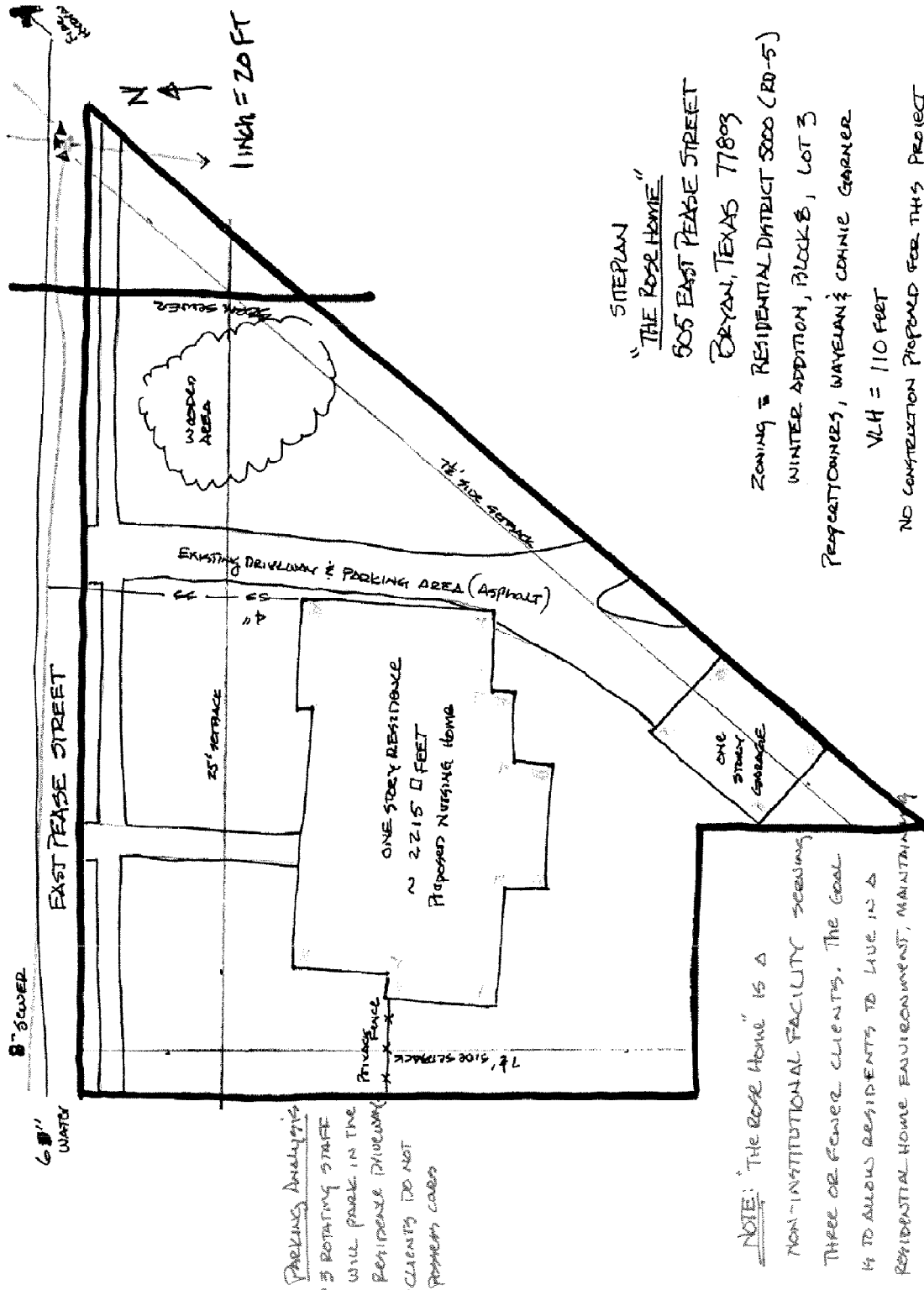
APPLICANT(S): Carlos Rodriguez

STAFF CONTACT: Randy Haynes, Project Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** this Conditional Use Permit.



SITE PLAN:



SITE PLAN
"THE ROSE HOME"

505 EAST PEASE STREET

BRYAN, TEXAS 77803

ZONING = RESIDENTIAL DISTRICT 8000 (RD-5)

WINTER ADDITION, BLOCK 8, LOT 3

PERCEPTIONS, WAYLAN & CONNIE GARNER

V.L.H. = 110 FEET

NO CONSTRUCTION PROPOSED FOR THIS PROJECT

THIS SITE DOES NOT LIE WITHIN THE 100 YEAR FLOOD PLAIN AS PER
FIRM PANEL # 48041C0715E

Parking Analysis

• 3 ROTATING STAFF
WILL PARK IN THE
RESIDENCE DRIVEWAY
• CLIENTS DO NOT
PARK CARS

NOTE: "THE ROSE HOME" IS A
NON-INSTITUTIONAL FACILITY SERVING
THREE OR FEWER CLIENTS. THE GOAL
IS TO ALLOW RESIDENTS TO LIVE IN A
RESIDENTIAL HOME ENVIRONMENT, MAINTAINING
DIGNITY & RESPECT WHILE PROVIDING
WITH PERSONAL SERVICES ASSISTING WITH
ACTIVITIES OF DAILY LIVING

PHOTO OF SUBJECT PROPERTY:



BACKGROUND:

In 2008, the applicant, Mr. Carlos Rodriguez, began renting the subject property and started operating a care facility for the elderly with up to 3 residents at this location. Soon after opening, the City of Bryan Code Enforcement Department received a complaint from a citizen stating that there was a business operating at this location, because a sign advertising the location of the “Rose Home” had been installed in the front yard. Upon investigation, staff determined that in the context of Bryan’s Zoning Ordinance, the service that Mr. Rodriguez provides must currently be classified as a nursing home use, which is permitted in residential zoning districts only with prior approval of a Conditional Use Permit by the Planning and Zoning Commission. Bryan’s Zoning Ordinance (Chapter 130, Bryan Code of Ordinances) defines a nursing home as

a health facility used for or customarily occupied by persons recovering from illness or suffering from infirmities of age, and furnished meals or continuing nursing care for compensation and,

a home where elderly or handicapped persons are provided with lodging, meals and nursing care.

The aforementioned sign was removed shortly thereafter. The care facility use of the property, however, continued, as the applicant sought to legitimize the care facility use at this location through a proposed text amendment to the Zoning Ordinance. On February 23, 2010, the Council directed staff to cease pursuit of that text amendment. Following Council's direction to staff, the applicant decided to request the approval of a Conditional Use Permit to legitimize the nursing home care facility at this location. If the Planning and Zoning Commission approves this request, then the property may be lawfully occupied by a nursing home care facility with up to 3 residents, in accordance with the site plan that is attached to this staff report.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan adopted a Comprehensive Plan in January 2007. The plan includes policy recommendations related to the various physical development aspects of the community. These aspects are supported by a set of goals and objectives. The Planning and Zoning Commission shall consider the following when making a decision regarding this particular request:

Chapter 5: Land Use

5.5. Land Use Policies

Redevelopment and Infill Policies

Policy statements:

The City of Bryan will encourage and promote compatible infill and redevelopment in areas where these activities will benefit the city as a whole and the area specifically.

Land Use Goal #1:

Achieve a balance of land uses within the city.

Land Use Goal #1, Objective A:

Achieve a sustainable mix of land use types in suitable locations, densities and patterns.

ANALYSIS:

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

The proposed nursing home with up to 3 residents will conform to all applicable regulations and standards. The attached site plan has been reviewed and conditionally approved by the Site Development Review Committee. No variations from existing standards are being requested.

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

Abutting properties to the northwest, east and southwest are developed with single-family homes. A church is located north of the subject property and a middle school is located to the northeast. To the south, the subject property is abutted by land zoned Commercial (C-3) District that is currently occupied by an auto service facility.

Staff believes that, in this particular case, the small scale of the proposed nursing home use with no more than 3 residents will have minimal adverse impacts on adjacent uses in this vicinity, including existing single-family residences. Staff believes that the nursing home with up to 3 residents on the subject property will be compatible with adjacent land uses and appropriate in this particular environment. The proposed nursing home can reasonably be expected to not have any greater negative effects on nearby properties and this particular location or this neighborhood as a whole than, for example, group homes/community home uses. Group homes are allowed by right in RD-5 Districts and can have as many as 6 residents and 2 resident caregivers.

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

Staff believes that the nursing home at this location does not create unfavorable effects or impacts on abutting properties. As mentioned above, group homes/community home uses with as many as 6 residents and 2 resident caregivers are already allowed by right at this location. Staff contends that the proposed nursing home with up to 3 residents and no resident caregivers would be less intense than a group home on this property.

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

Staff contends that the proposed nursing home with up to 3 residents at this location should not have any adverse effects on vehicular and pedestrian traffic in this vicinity. As the site plan shows, adequate off-street parking is being provided for the staff and there already exists a sidewalk along East Pease Street.

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

No new physical development is proposed on the property. No additional impact concerning erosion, flood, fire and other hazards are expected. .

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

Staff contends that a nursing home with up to 3 residents at this location should not have any more adverse effects on traffic control or adjacent properties than any other occupancy of this property by 3 individuals.

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

Staff contends that there is adequate and convenient off-street parking (more than 3 spaces) for the proposed occupancy of this property with a nursing home with up to 3 residents. To preserve the residential character of the nursing home and its surroundings, no additional off-street parking is proposed to be provided for caregivers or guests of the residents.

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

The Zoning Ordinance allows for certain business establishments to exist in residential neighborhoods so long as the surrounding residential land use is protected from potentially adverse impacts of these businesses. Nursing homes are one such use that the Zoning Ordinance potentially allows in residential districts. Staff believes that, in this particular case, the request to operate a “small scale” nursing home conforms to the objectives and purpose of the RD-5 zoning district. As mentioned above, this property is adjoined by single-family homes, a church, a middle school and an auto service facility. The proposed nursing home establishment appears to be an appropriate use in this particular environment.

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Staff finds that because of its essentially residential nature, the proposed nursing home use at this specific location will produce no ill effects nor will be detrimental to public health, safety or welfare.

10. Whether the premises or structures are suitable for the proposed conditional use.

The existing premises and structure is an existing residence. Staff finds that this small scale nursing home, being a residential use, should be able to occupy the subject property.

RECOMMENDATION:

Based on all these considerations, staff **recommends approving** the Conditional Use Permit, as requested. The proposed nursing home with up to 3 residents appears to conform to land use recommendations of the Bryan Comprehensive Plan and the meets the required criteria for approval of Conditional Use Permits as stipulated by the Zoning Ordinance. Staff believes that, in this particular case, the small scale of the proposed nursing home use with only 3 residents will have minimal adverse impacts on adjacent uses in this vicinity, including existing single-family residences. Staff believes that the nursing home with up to 3 residents on the subject property will be compatible with adjacent land uses and appropriate in this particular environment. The proposed nursing home can reasonably be expected to not have any greater negative effects on nearby properties and this particular location or this neighborhood as a whole than group homes/community home uses.